



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 211020-0214]

RIN 0648-BK73

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pink Shrimp and Midwater Trawl Exemptions to Vessel Monitoring System Requirements for the West Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes revisions to monitoring provisions that specify exemptions for non-groundfish trawl vessels participating in the Pacific coast pink shrimp fishery and for groundfish midwater trawl vessels. In a final rule on vessel movement, monitoring, and declaration management for the Pacific coast groundfish fishery published on June 11, 2020, vessels in the pink shrimp trawl fishery were incorrectly included with other open access non-groundfish trawl vessels that became subject to a higher position transmission rate on their NMFS type-approved vessel monitoring system (VMS) units. This proposed rule would correct the error and return the required transmission rate for vessels in the pink shrimp trawl fishery to once every 60 minutes, as recommended by the Pacific Fishery Management Council. This proposed rule would also correct a citation error in the VMS regulations with regards to exemptions for midwater trawl vessels, as well as a typographical error in the trawl fishery prohibitions.

DATES: Comments on this proposed rule must be received on or before [*insert date 30 days after date of publication in the Federal Register*].

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2021-0085, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2021-0085 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post the comments for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Copies of the analytic document supporting this action, are available via the Federal eRulemaking Portal: <https://www.regulations.gov>, docket NOAA–NMFS–2021-0085, or by contacting the Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Matt Dunlap, Fishery Policy Analyst, 206-526-6019, or matthew.dunlap@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 2020, NMFS published a final rule on vessel movement, monitoring, and declaration management that revised reporting and monitoring provisions for vessels participating in the Pacific coast groundfish fishery (85 FR 35594). The rule increased the

vessel position frequency to increase NMFS's ability to enforce fishing activity around restricted areas. The rule required an increase in the position transmission rate from once every 60 minutes to once every 15 minutes for groundfish vessels using NMFS type-approved VMS units. This increase in frequency produces more course, location, and speed data to improve NMFS's ability to identify whether vessels are continuously transiting in restricted areas or not. While the Pacific Fishery Management Council (Council) discussed and recommended an exemption to the increased transmission rate for vessels fishing in the pink shrimp trawl fishery because this fishery is not currently subject to restricted fishing areas, the exemption for pink shrimp trawl vessels was inadvertently not included in the original proposed or final rule. This proposed rule would add the exemption to the increased ping rate for pink shrimp trawl vessels, as well as correct a citation error in the midwater trawl exemption paragraph at 50 CFR 660.14(d)(3)(ii)(B) and correct a typographical error in the prohibitions section of the trawl fishery regulations at 50 CFR 660.112(b)(1)(x).

Between September 2014 and April 2016, the Council developed and considered management measures to address a range of vessel and gear movement issues and aggregated these issues under a single vessel movement monitoring agenda item. Additional details about the Council's considerations are included in the Council's analytical document (see **ADDRESSES**). The Council's public scoping document includes several references to making an exemption for the increase in ping rate for pink shrimp trawl vessels, specifically in Section 1.5.6.

The Council noted that the pink shrimp fishery is currently required to maintain a VMS unit at a ping rate of one per hour; however, there are no closed areas for the pink shrimp trawl fishery. A vessel is required to declare the type of gear being used for each trip so enforcement can verify that the vessel is authorized to fish in the Rockfish

Conservation Area. Therefore the Council decided that additional monitoring for vessels participating in the pink shrimp trawl fishery is not necessary.

Summary of the Proposed Changes

This section discusses the regulatory revisions proposed by this rule that are expected to carry out the Council's recommendation. The proposed measures would:

- Restore the position transmission rate requirement of once every 60 minutes for vessels participating in the pink shrimp trawl fishery;
- Correct a citation in the ping rate exemption for midwater trawl fishing vessels; and
- Correct a typographical error in the prohibitions section of the trawl fishery regulations.

These proposed revisions would relieve vessels participating in the pink shrimp fishery from the added burden of more frequent position transmissions, consistent with the Council's recommendation and would clarify a cross-citation from the previous rulemaking on this issue.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Pacific Coast Groundfish Fishery Management Plan (FMP), other provisions of the Magnuson-Stevens Act, and other applicable law. In making the final determination, NMFS will consider the data, views, and comments received during the public comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. As this rule is correcting an oversight in an earlier rule and would result in no change to the status quo for regulated entities, there are not expected to be any economic or regulatory impacts on these entities.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Approximately 100 vessels would be impacted by this rule, all of whom would be considered small according to the size standard for commercial fishing businesses, with a median vessel revenue of \$305,000. Because all directly regulated entities are small, these proposed regulations would not be expected to place small entities at a significant disadvantage to large entities. This action would also not be expected to significantly reduce profit or result in any change from the status quo for the approximately 100 vessels impacted by the rule. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: October 20, 2021.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.14, revise paragraph (d)(3)(ii)(B) and add paragraph (d)(3)(ii)(D) to read as follows:

§ 660.14 Vessel Monitoring System (VMS) requirements.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(B) *Midwater trawl exemption.* If a limited entry trawl vessel is fishing with midwater trawl gear under declarations in § 660.13(d)(4)(iv)(A), the mobile transceiver unit must transmit a signal at least once every hour.

* * * * *

(D) *Pink shrimp trawl exemption.* If a vessel is fishing for pink shrimp using non-groundfish trawl gear under declarations in § 660.13(d)(4)(iv)(A), the mobile transceiver unit must transmit a signal at least once every hour.

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3. In § 660.112, revise paragraph (b)(1)(x) to read as follows:

§ 660.112 Trawl fishery – prohibitions.

* * * * *

(b) * * *

(1) * * *

(x) Use midwater groundfish trawl gear outside the Pacific whiting IFQ fishery primary season dates as specified at § 660.131(b).

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